

Appl. No. 10/692,074
Amndt. dated June 27, 2005
Reply to Office Action of February 25, 2005

PATENT

REMARKS/ARGUMENTS

This Amendment is responsive to the Office Action mailed on February 25, 2005.

In this Amendment, claim 9 is canceled and the limitation therein is incorporated into claim 1. Claim 19 is amended so that is in independent form. Claims 2, 14, 16, and 18 are also amended, claims 23-25 are added, and claims 20-22 are canceled so that claims 1-8, 10-19 and 23-25 are pending and subject to examination on the merits. Support for new claims 23-25 can be found at paragraphs [0030] and [0061] of the present specification, as well as the original claims and Figures.

Since claim 19 is amended so that it is independent form, the amendment to claim 19 does not raise new issues requiring further search and/or consideration.

Applicants initially wish to thank the Examiner for taking the time to discuss the issues in the present case with the undersigned on June 2, 2005.

Turning now to the Office Action, a number of objections and rejections are made in the Office Action. They will be addressed in the order presented in the Office Action.

At page 2 of the Office Action, the Examiner indicates that claims 20-22 are withdrawn from consideration. The restriction requirement is acknowledged. Claims 20-22 have been canceled to expedite the prosecution. Applicants reserve the right to file a divisional application directed to the non-elected subject matter.

At page 2 of the Office Action, the Examiner indicates that the title of the application is not descriptive. In response, Applicants submit that the previous title was descriptive. However, Applicants have amended the application so that it has a new title. Withdrawal of the objection is requested.

At page 2 of the Office Action, the Examiner states that claims 2-4 and 18 are indefinite, because the use of the term "coupling" is allegedly unclear. Applicants disagree and submit that the term "coupling" is in the claims of literally thousands of US Patents. However, to expedite the prosecution of the application, the rejected claims have been amended to indicate

Appl. No. 10/692,074
Amdt. dated June 27, 2005
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PATENT

that an intermediate portion is "between" outer portions. Applicants submit that one of ordinary skill in the art knows what is meant by the word "between".

I. Claims rejections - 35 USC 103

Claims 1, 5-8, 10-17, and 19 are rejected as being obvious over Dietz (US 3,622,166) and Dalton (US 6,238,818). Claim 9 is rejected as obvious over Dietz, Dalton, and Naghi et al. (US 6,505,949). These rejections are traversed.

According to the Examiner, "Dietz teaches a battery-operated unit comprising a housing (1) including a first battery holding region and a second battery holding region (3) wherein the first and second battery holding regions are aligned along a same axis as shown in Figure 3 and 4. See abstract." The Examiner further states that Dietz does not disclose a battery separator disposed between a first battery holding region and a second battery holding region, and that Dalton discloses this feature. The Examiner then states that it would have been obvious to incorporate the cartridge of Dalton onto the battery-operated unit of Dietz, because Dalton teaches the use of such cartridge prevents the incorrect orientation of the batteries.

These rejections are traversed.

A. Independent claim 1

As noted above, the limitation in dependent claim 9 is incorporated into independent claim 1. Accordingly, the combination of Dietz and Dalton is no longer applicable. The only remaining rejection as to claim 1 would be the combination of Dietz, Dalton, and Naghi et al.

Obviousness has not been established, since all limitations are not taught or suggested by the cited art. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). MPEP 2143.01. Here, as explained below, neither Dietz, Dalton, nor Naghi et al. teach or suggest an electrical apparatus comprising, *inter alia*, a battery pack

Appl. No. 10/692,074
Amdt. dated June 27, 2005
Reply to Office Action of February 25, 2005

PATENT

including a body comprising an aperture, wherein the battery separator in an electrical device is insertable within the aperture.

Dietz is cited as teaching the components of the "electrical device" in claim 1. Dietz appears to disclose a simple light. Dietz fails to disclose an electrical device including a battery separator, and a separate battery pack including a body with an aperture that can receive the battery separator. In addition to this, Dietz also fails to teach or suggest a processor, a memory, and an input device. Thus, Dietz fails to teach or suggest at least five limitations in independent claim 1 so Dietz cannot possibly teach or suggest the invention of claim 1.

Dalton also fails to teach or suggest the features of claim 1. Dalton discloses a dry cell cartridge. Dalton fails to teach or suggest a battery pack with an aperture and a separate electrical device with a battery separator that is insertable within the aperture, and fails to teach or suggest a processor, a memory coupled to the processor, and an input device. Dalton fails to teach or suggest at least four limitations in claim 1, so Dalton cannot teach or suggest the invention of claim 1.

Naghi et al. discloses a gaming device. Naghi et al. fails to mention battery packs, rechargeable batteries, or anything remotely related to these concepts. Like Dietz and Dalton, Naghi et al. also fails to teach or suggest a battery pack with an aperture and a separate electrical device with a battery separator that is insertable within the aperture of the battery pack.

Since all limitations in independent claim 1 are not taught or suggested by the cited art, claim 1 and any claims dependent thereon are novel and unobvious.

B. Independent claim 16

Independent claim 16 was rejected over the combination of Dietz and Dalton. Neither Dietz nor Dalton teach or suggest, *inter alia*, a battery pack comprising a body including a linear portion; a first rechargeable battery; a second rechargeable battery; and an aperture in the linear portion of the body in between the first rechargeable battery and the second rechargeable battery, wherein the aperture is capable of receiving a battery separator, "wherein the body encloses the first rechargeable battery and the second rechargeable battery and prevents removal

Appl. No. 10/692,074
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PATENT

of the first and second rechargeable batteries from the battery pack" as recited in independent claim 16. As shown in FIG. 3 of the present application, the battery pack 18 encloses rechargeable batteries 94(a), 94(b) so that they cannot be removed from the battery pack 18. As discussed in the application, the battery pack as a whole is recharged and is subsequently used with an electrical device with a battery separator.

Dietz discloses a battery operated unit and it is cited as being an "electrical device" and is not cited as being a "battery pack". For this reason alone, Dietz is not applicable to independent claim 16. Moreover, the batteries in Dietz's device are supposed to be removable (see col. 3), not enclosed within a body which prevents their removal. Accordingly, one would not have been motivated to modify Dietz's light device to prevent the removal of batteries, since spent batteries need to be removed from Dietz's device in order for his device to operate. Accordingly, there is no motivation to modify Dietz to arrive at embodiments of the invention.

Dalton discloses a dry cell cartridge, but does not disclose or suggest a body which "encloses the first rechargeable battery and the second rechargeable battery and prevents removal of the first and second rechargeable batteries from the battery pack." As explained in Dalton's abstract, Dalton's device allows for the "easy extraction of dry cells from the cartridge". Put another way, Dalton explicitly desires removing dry cells from his cartridge and does not suggest the non-removal of his dry cells from his cartridge. Accordingly, one would not have been motivated to modify Dalton to prevent the removal of dry cells, since the purpose of Dalton's cartridge is to allow for the easy extraction of dry cells.

3. Independent claim 19

Current independent claim 19 is the same as previously presented dependent claim 19. The amendment of claim 19 to put it into independent form should not raise new issues requiring further search and/or consideration, since claim 19 was previously presented prior to the first Office Action.

Independent claim 19 recites a battery pack comprising, *inter alia*, a first linear portion including first and second batteries aligned along a first axis and a second linear portion

Appl. No. 10/692,074
Amdt. dated June 27, 2005
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PATENT

including third and fourth batteries aligned along a second axis, "wherein the first and second axes diverge". An example of this structure is shown at FIG. 5 in the present application. In FIG. 5, a first linear portion 18a and a second linear portion 18c are aligned along axes that diverge. Clearly, no such structure is taught or suggested by Dietz and Dalton.

The Examiner states that "[w]ith respect to claim 19, Dietz teaches the two axes of the batteries are different. See Figures 3 and 4."

Dietz fails to mention a "battery pack", "rechargeable batteries" and other limitations. The rejection based on Dietz with respect to claim 19 should be withdrawn for this reason alone. In addition, although Dietz does show four batteries in a light device in two columns, the batteries in those two columns are aligned along two "parallel" axes. Although the Examiner indicates that the batteries in Dietz are aligned along "different" axes, they are not "diverging" axes. According to Webster's, "diverge" means "to move, lie, or extend in different directions from a common point". Clearly, the parallel axes corresponding to the parallel batteries in Dietz do not "extend in different directions from a common point" and thus do not "diverge" as in claim 19.

Dalton also fails to teach or suggest claim 19. Dalton teaches a dry cell cartridge with a single line of batteries. Accordingly, Dalton discloses batteries aligned along a single axis, and not at least two axes, and clearly not at least two axes wherein the axes "diverge".

Clearly, a brief review of the Figures of Dietz and Dalton et al. indicate that the structure claimed in independent claim 19 is simply not taught or suggested by Dietz and Dalton.

B. Advantages provided by embodiments of the invention

Embodiments of the invention provide a number of advantages not appreciated by the prior art. As explained at paragraph [0062] of the specification, the electrical apparatus according to embodiments of the invention can use a rechargeable battery pack or non-rechargeable batteries that are in-line. A rechargeable battery pack according to an embodiment of the invention can have an aperture to accommodate a battery separator in an electrical device. The rechargeable battery pack can be used with the electrical device and the battery separator

Appl. No. 10/692,074
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PATENT

will not prevent the insertion of the battery pack into the battery holding regions in the electrical device. The resulting electrical apparatus is thinner and has more power than conventional electrical apparatus.

In addition to being non-obvious in view of Dietz and Dalton, neither Dietz nor Dalton mention the problem addressed, the solution, or the advantages provided by embodiments of the invention. Accordingly, Applicants submit that there are many more reasons why one would conclude that embodiments of the invention are patentable, rather than not patentable.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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